

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
UNITED STATES OF AMERICA,

-against-

MATHEW MARTOMA,

No. 12 Cr. 973 (PGG)

Defendant.

-----x

DECLARATION OF KARA MORGENSTERN

Kara Morgenstern declares, pursuant to 28 U.S.C. § 1746, as follows:

1. I am Associate General Counsel in the University of Michigan Health System Legal Office, within the Office of the Vice-President and General Counsel of the University of Michigan (the “University”). I submit this Declaration pursuant to the Court’s September 24, 2013 Order in the above-captioned action.

2. I personally compiled the materials attached hereto, both by conducting searches myself and in coordination with and with assistance from the following:

- a. The University’s Office of the Secretary for the Regents;
- b. The University’s Internal Audit function;
- c. The University’s Office of the Provost;
- d. The University’s Privacy Officer and Information Technology (“IT”) Policy and Enterprise Continuity Strategist;
- e. The University’s IT User Advocate;
- f. The Bentley Historical Library;
- g. The University Medical School’s Faculty Affairs Office;
- h. The University Medical School’s Chief IT Security Officer;

- i. The University Medical School's Department of Neurology Administrators;
- j. The University Medical School's Office of Regulatory Affairs;
- k. The University Health System's Office of Clinical Affairs and Medical Staff Services;
- l. The University Health System's Compliance Office; and
- m. The University's Freedom of Information Act ("FOIA") office.

3. The materials attached hereto represent materials responsive to the Court's September 24, 2013 Order that the University was able to identify and locate after a diligent search, as described above. These materials cover the period of Dr. Sidney Gilman's employment with the University, from September 1, 1977 until November 27, 2012.

The By-Laws of the Board of Regents of the University of Michigan

4. Attached hereto as Exhibits A-1 through 3 are true and correct copies of excerpts of documents relating to Section 14.07 of Chapter 14 of the By-Laws of the Board of Regents of the University of Michigan. Specifically:

- a. Attached hereto as Exhibit A-1 is a true and correct copy of an excerpt of the January 1980 University Board of Regents Agenda. I have not been able to ascertain whether the November 1979 guidelines contained therein were ever adopted or disseminated.
- b. Attached hereto as Exhibit A-2 is a true and correct copy of Section 14.07 as adopted in January of 1980.
- c. Attached hereto as Exhibit A-3 is a true and correct copy of the current web version of Section 14.07, as adopted in October of 2012.

The Standard Practice Guide

5. The Standard Practice Guide (“SPG”) is a repository of University-wide policies and procedures.

6. Attached hereto as Exhibits B-1 through 4 are true and correct copies of SPG 303.3 (subsequently re-numbered as 303.03). Specifically:

- a. Attached hereto as Exhibit B-1 is a true and correct copy of SPG 303.3, as issued in December of 1986.
- b. Attached hereto as Exhibit B-2 are true and correct copies of SPG 303.3, as adopted in July of 1994.
- c. Attached hereto as Exhibit B-3 are true and correct copies of SPG 303.3, as adopted in September of 2009.
- d. Attached hereto as Exhibit B-4 is a true and correct copy of the current web version of SPG 303.03.

7. Attached hereto as Exhibits C-1 through 3 are true and correct copies of SPG 507.2 (subsequently consolidated into SPG 520.1). Specifically:

- a. Attached hereto as Exhibit C-1 is a true and correct copy of SPG 507.2, as issued in March of 1977.
- b. Attached hereto as Exhibit C-2 are true and correct copies of SPG 507.2, as adopted in October of 1984.
- c. Attached hereto as Exhibit C-3 are true and correct copies of SPG 507.2, as adopted in July of 1997.

8. Attached hereto as Exhibits D-1 through 5 are true and correct copies of SPG 512.2 (subsequently renumbered as SPG 512.02). Specifically:

- a. Attached hereto as Exhibit D-1 are true and correct copies of SPG 512.2, as issued in November of 1983.
- b. Attached hereto as Exhibit D-2 are true and correct copies of SPG 512.2, as adopted in July of 1989.
- c. Attached hereto as Exhibit D-3 is a true and correct copy of SPG 512.2, as adopted in June of 1995.
- d. Attached hereto as Exhibit D-4 is a true and correct copy of SPG 512.2, as adopted in February of 1998.
- e. Attached hereto as Exhibit D-5 is a true and correct copy of the current web version of SPG 512.02.

9. Attached hereto as Exhibits E-1 through 2 are true and correct copies of SPG 514.04. Specifically:

- a. Attached hereto as Exhibit E-1 is a true and correct copy of SPG 514.04, as issued in May of 2012.
- b. Attached hereto as Exhibit E-2 is a true and correct copy of the current web version of SPG 514.04.

10. Attached hereto as Exhibits F-1 through 6 are true and correct copies of SPG 517.1 (subsequently consolidated into SPG 520.1). Specifically:

- a. Attached hereto as Exhibit F-1 is a true and correct copy of SPG 517.1, as issued in July of 1971.
- b. Attached hereto as Exhibit F-2 is a true and correct copy of SPG 517.1, as adopted in September of 1972.

- c. Attached hereto as Exhibit F-3 is a true and correct copy of SPG 517.1, as adopted in September of 1985.
- d. Attached hereto as Exhibit F-4 are true and correct copies of SPG 517.1, as adopted in August of 1989.
- e. Attached hereto as Exhibit F-5 is a true and correct copy of SPG 517.1, as adopted in July of 1997.
- f. Attached hereto as Exhibit F-6 are true and correct copies of SPG 517.1, as adopted in August of 1998.

11. Attached hereto as Exhibits G-1 through 3 are true and correct copies of SPG 517.2 (subsequently consolidated into SPG 520.1). Specifically:

- a. Attached hereto as Exhibit G-1 is a true and correct copy of SPG 517.2, as issued in June of 1980.
- b. Attached hereto as Exhibit G-2 is a true and correct copy of SPG 517.2, as adopted in September of 1985.
- c. Attached hereto as Exhibit G-3 is a true and correct copy of SPG 517.2, as adopted in August of 1998.

12. Attached hereto as Exhibits H-1 through 2 are true and correct copies of SPG 518.2 (subsequently consolidated into SPG 520.1). Specifically:

- a. Attached hereto as Exhibit H-1 is a true and correct copy of SPG 518.2, as issued in August of 1984.
- b. Attached hereto as Exhibit H-2 are true and correct copies of SPG 518.2, as adopted in June of 1989.

13. Attached hereto as Exhibits I-1 through 4 are true and correct copies of SPG 520.1 (subsequently renumbered as SPG 520.01). Specifically:

- a. Attached hereto as Exhibit I-1 are true and correct copies of SPG 520.1, as issued in February of 2003.
- b. Attached hereto as Exhibit I-2 is a true and correct copy of SPG 520.1, as issued in October of 2004.
- c. Attached hereto as Exhibit I-3 is a true and correct copy of SPG 520.1, as adopted in June of 2005.
- d. Attached hereto as Exhibit I-4 is a true and correct copy of the current web version of SPG 520.01.

14. Attached hereto as Exhibits J-1 through 2 are true and correct copies of SPG 601.5 (subsequently consolidated into SPG 520.1). Specifically:

- a. Attached hereto as Exhibit J-1 is a true and correct copy of SPG 601.5, as issued in February of 1987.
- b. Attached hereto as Exhibit J-2 is a true and correct copy of SPG 601.5, as adopted in May of 1987.

15. Attached hereto as Exhibits K-1 through 4 are true and correct copies of SPG 601.7 (subsequently renumbered as SPG 601.07). Specifically:

- a. Attached hereto as Exhibit K-1 is a true and correct copy of SPG 601.7, as issued in May of 1990.
- b. Attached hereto as Exhibit K-2 is a true and correct copy of SPG 601.7, as adopted in August of 1996.

- c. Attached hereto as Exhibit K-3 is a true and correct copy of SPG 601.7, as adopted in December of 2002.
- d. Attached hereto as Exhibit K-4 is a true and correct copy of the current web version of SPG 601.07.

16. Attached hereto as Exhibits L-1 through 2 are true and correct copies of SPG 601.7-1 (subsequently renumbered as SPG 601.07-1). Specifically:

- a. Attached hereto as Exhibit L-1 is a true and correct copy of SPG 601.7-1, as issued in October of 1997.
- b. Attached hereto as Exhibit L-2 is a true and correct copy of the current web version of SPG 601.07-1.

17. Attached hereto as Exhibits M-1 through 2 are true and correct copies of SPG 601.8 (subsequently renumbered as SPG 601.08). Specifically:

- a. Attached hereto as Exhibit M-1 are true and correct copies of SPG 601.8, as issued in June of 1992.
- b. Attached hereto as Exhibit M-1 is a true and correct copy of the current web version of SPG 601.8.

18. Attached hereto as Exhibits N-1 through 3 are true and correct copies of SPG 601.8-1 (subsequently renumbered as SPG 601.08-1). Specifically:

- a. Attached hereto as Exhibit N-1 is a true and correct copy of SPG 601.8-1, as issued in May of 1997.
- b. Attached hereto as Exhibit N-2 are true and correct copies of SPG 601.8-1, as adopted in June of 2005.

- c. Attached hereto as Exhibit N-3 is a true and correct copy of the current web version of SPG 601.08.

19. Attached hereto as Exhibits O-1 through 3 are true and correct copies of SPG 601.11. Specifically:

- a. Attached hereto as Exhibit O-1 is a true and correct copy of SPG 601.11, as issued in December of 1993.
- b. Attached hereto as Exhibit O-2 is a true and correct copy of SPG 601.11, as adopted in September of 2004.
- c. Attached hereto as Exhibit O-3 is a true and correct copy of the current web version of SPG 601.11.

20. Attached hereto as Exhibits P-1 through 6 are true and correct copies of SPG 601.12. Specifically:

- a. Attached hereto as Exhibit P-1 is a true and correct copy of SPG 601.12, as issued in May of 1994.
- b. Attached hereto as Exhibit P-2 is a true and correct copy of SPG 601.12, as issued in April of 2004.
- c. Attached hereto as Exhibit P-3 is a true and correct copy of SPG 601.12, as issued in June of 2004.
- d. Attached hereto as Exhibit P-4 is a true and correct copy of SPG 601.12, as issued in January of 2005.
- e. Attached hereto as Exhibit P-5 is a true and correct copy of SPG 601.12, as issued in March of 2008.

- f. Attached hereto as Exhibit P-6 is a true and correct copy of the current web version of SPG 601.12.

University-Wide Information Technology Policies

21. Attached hereto as Exhibit Q is a true and correct copy of the University's Information Technology Division's "Conditions of Use," published in December of 1990.

22. Attached hereto as Exhibit R is a true and correct copy of the University's "Guidelines for Implementing the Proper Use Policy of the University of Michigan," adopted in July of 2011.

23. Attached hereto as Exhibits S-1 through 2 are true and correct copies of the University's "Data Management and Protection: Roles & Responsibilities" policy. Specifically:

- a. Attached hereto as Exhibit S-1 is a true and correct copy of the University's "Data Management and Protection: Roles & Responsibilities" policy, adopted in December of 2008.

- b. Attached hereto as Exhibit S-2 is a true and correct copy of the University's "Data Management and Protection: Roles & Responsibilities" policy, adopted in November of 2011.

24. Attached hereto as Exhibit T is a true and correct copy of the University's "Sensitive Regulated Data: Permitted and Restricted Uses" policy, issued in January of 2012.

University Human Resources Policies

25. Attached hereto as Exhibit U is a true and correct copy of the University's "Statement on Stewardship," dated February 28, 2002.

University Health System, School, and Department-Level Policies

26. Attached hereto as Exhibits V-1 through 4 are true and correct copies of the University's Corporate Compliance Program. Specifically:

- a. Attached hereto as Exhibit V-1 is a true and correct copy of the University Medical Center's Policy #01-04-001 relating to the Corporate Compliance Program, as issued in October of 1997.
- b. Attached hereto as Exhibit V-2 is a true and correct copy of the University Hospitals and Health Center's Policy #01-04-001 relating to the Corporate Compliance Program, as adopted in October of 2001.
- c. Attached hereto as Exhibit V-3 is a true and correct copy of the University Hospitals and Health Center's Policy #01-04-001 relating to the Corporate Compliance Program, as adopted in August of 2005.
- d. Attached hereto as Exhibit V-4 is a true and correct copy of the University Health System's Corporate Compliance Program, as adopted in December of 2006.

27. Attached hereto as Exhibits W-1 through 2 are true and correct copies of Medical Center Information Technology Policy 03-001-001. Specifically:

- a. Attached hereto as Exhibit W-1 is a true and correct copy of Medical Center Information Technology Policy 03-001-001, issued in February of 2005.
- b. Attached hereto as Exhibit W-2 is a true and correct copy of Medical Center Information Technology Policy 03-001-001, adopted in July of 2009.

University Faculty Handbook

28. Attached hereto as Exhibits X-1 through 9 are true and correct copies of excerpts of the University Faculty Handbook. Specifically:

- a. Attached hereto as Exhibit X-1 is a true and correct copy of excerpts of the University Faculty Handbook, as issued in September of 1978.
- b. Attached hereto as Exhibit X-2 is a true and correct copy of excerpts of the University Faculty Handbook, as adopted in December of 1994.
- c. Attached hereto as Exhibit X-3 is a true and correct copy of excerpts of the University Faculty Handbook, as adopted in the Fall of 1998.
- d. Attached hereto as Exhibit X-4 is a true and correct copy of excerpts of the University Faculty Handbook, as adopted in the Fall of 2001.
- e. Attached hereto as Exhibit X-5 is a true and correct copy of excerpts of the University Faculty Handbook, as adopted in the Fall of 2004.
- f. Attached hereto as Exhibit X-6 is a true and correct copy of excerpts of the University Faculty Handbook, as adopted in the Fall of 2005.
- g. Attached hereto as Exhibit X-7 is a true and correct copy of excerpts of the University Faculty Handbook, as adopted in the Fall of 2006.
- h. Attached hereto as Exhibit X-8 is a true and correct copy of excerpts of the University Faculty Handbook, as adopted in the Winter of 2008.
- i. Attached hereto as Exhibit X-9 is a true and correct copy of excerpts of the current web version of the University Faculty Handbook.

University Medical School By-Laws

29. Attached hereto as Exhibits Y-1 through 7 are true and correct copies of the University Medical School By-Laws. Specifically:

- a. Attached hereto as Exhibit Y-1 is a true and correct copy of the Medical School By-Laws, as approved in May of 2001.

- b. Attached hereto as Exhibit Y-2 is a true and correct copy of the Medical School By-Laws, as revised in August of 2003.
- c. Attached hereto as Exhibit Y-3 is a true and correct copy of the Medical School By-Laws, as approved in February of 2006.
- d. Attached hereto as Exhibit Y-4 is a true and correct copy of the Medical School By-Laws, as approved in September of 2009.
- e. Attached hereto as Exhibit Y-5 is a true and correct copy of the Medical School By-Laws, as approved in March of 2011.
- f. Attached hereto as Exhibit Y-6 is a true and correct copy of the Medical School By-Laws, as approved in September of 2011.
- g. Attached hereto as Exhibit Y-7 is a true and correct copy of the Medical School By-Laws, as approved in April of 2012.

University Medical School Faculty Handbook

30. Attached hereto as Exhibits Z-1 through 9 are true and correct copies of the University Medical School Faculty Handbook. Specifically:

- a. Attached hereto as Exhibit Z-1 is a true and correct copy of the University Medical School Handbook for years 2000-2001.
- b. Attached hereto as Exhibit Z-2 is a true and correct copy of the University Medical School Handbook for the year 2002.
- c. Attached hereto as Exhibit Z-3 is a true and correct copy of the University Medical School Handbook for the years 2003-2004.
- d. Attached hereto as Exhibit Z-4 is a true and correct copy of the University Medical School Handbook for the years 2004-2005.

- e. Attached hereto as Exhibit Z-5 is a true and correct copy of the University Medical School Handbook for the years 2005-2006.
- f. Attached hereto as Exhibit Z-6 is a true and correct copy of the University Medical School Handbook for the years 2007-2008.
- g. Attached hereto as Exhibit Z-7 is a true and correct copy of the University Medical School Handbook for the years 2008-2009.
- h. Attached hereto as Exhibit Z-8 is a true and correct copy of the University Medical School Handbook for the years 2010-2011.
- i. Attached hereto as Exhibit Z-9 is a true and correct copy of the University Medical School Handbook for the years 2011-2012.

University Health System Code of Conduct and Attestations Thereto

31. Attached hereto as Exhibits AA-1 through 2 are true and correct copies of the University Health System's Code of Conduct. Specifically:

- a. Attached hereto as Exhibit AA-1 is a true and correct copy of the University Health System's Code of Conduct dated March 2001.
- b. Attached hereto as Exhibit AA-2 is a true and correct copy of the University Health System's current Code of Conduct dated April of 2012.

32. Attached hereto as Exhibits BB-1 through 6 are true and correct excerpts of Dr. Gilman's University Health System Statements and Attestations. Specifically:

- a. Attached hereto as Exhibit BB-1 is a true and correct copy of Dr. Gilman's executed Confidentiality Statement, dated September 10, 2002.
- b. Attached hereto as Exhibit BB-2 is a true and correct copy of Dr. Gilman's executed Privacy and Confidentiality Statement, dated June 22, 2004.

- c. Attached hereto as Exhibit BB-3 is a true and correct copy of Dr. Gilman's executed Confidentiality and Security Statement, dated April 17, 2006.
- d. Attached hereto as Exhibit BB-4 is a true and correct copy of Dr. Gilman's executed Code of Conduct Statement and Certification, dated March 10, 2008.
- e. Attached hereto as Exhibit BB-5 is a true and correct copy of Dr. Gilman's executed Code of Conduct Attestation dated December 7, 2009.
- f. Attached hereto as Exhibit BB-6 is a true and correct copy of Dr. Gilman's transcripts, reflecting that Dr. Gilman completed his Compliance Certifications or Code of Conduct Attestation in the years 2008, 2009, 2010, 2011, and 2012.

University Medical Staff By-Laws, Rules and Regulations and Attestations Thereto

33. Attached as Exhibits CC-1 through 7 are true and correct copies of the University Medical Staff By-Laws, Rules, and Regulations. Specifically:

- a. Attached hereto as Exhibit CC-1 is a true and correct copy of the By-Laws of the Executive Board of University Hospital, as adopted June 6, 1975.
- b. Attached hereto as Exhibit CC-2 is a true and correct copy of the By-Laws, Rules, and Regulations of the Medical Staff of the University of Michigan, as amended February 25, 1983.
- c. Attached hereto as Exhibit CC-3 is a true and correct copy of the By-Laws, Rules, and Regulations of the Medical Staff of the University of Michigan, as amended March 23, 1989.
- d. Attached hereto as Exhibit CC-4 is a true and correct copy of the By-Laws, Rules, and Regulations of the Medical Staff of the University of Michigan, as amended in March of 1994.

- e. Attached hereto as Exhibit CC-5 is a true and correct copy of the University's Medical Staff By-Laws and By-Laws Supplement, as revised in November 1999.
- f. Attached hereto as Exhibit CC-6 is a true and correct copy of the Medical Staff By-Laws, as revised in 2004.
- g. Attached hereto as Exhibit CC-7 is a true and correct copy of the Medical Staff By-Laws, as revised in 2011.

34. Attached hereto as Exhibits DD-1 through 15 are true and correct redacted copies of excerpts of Dr. Gilman's executed medical staff applications. Specifically:

- a. Attached hereto as Exhibit DD-1 is a true and correct redacted copy of an excerpt of Dr. Gilman's executed medical staff application, dated July 15, 1977.
- b. Attached hereto as Exhibit DD-2 is a true and correct redacted copy of an excerpt of Dr. Gilman's executed medical staff application, dated November 23, 1988.
- c. Attached hereto as Exhibit DD-3 is a true and correct redacted copy of an excerpt of Dr. Gilman's executed medical staff application, dated January 16, 1991.
- d. Attached hereto as Exhibit DD-4 is a true and correct redacted copy of an excerpt of Dr. Gilman's executed medical staff application, dated March 4, 1993.
- e. Attached hereto as Exhibit DD-5 is a true and correct redacted copy of an excerpt of Dr. Gilman's executed medical staff application, dated May 15, 1995.
- f. Attached hereto as Exhibit DD-6 is a true and correct redacted copy of an excerpt of Dr. Gilman's executed medical staff application, dated August 20, 1996.
- g. Attached hereto as Exhibit DD-7 is a true and correct redacted copy of an excerpt of Dr. Gilman's executed medical staff application, dated May 12, 1997.

- h. Attached hereto as Exhibit DD-8 is a true and correct redacted copy of an excerpt of Dr. Gilman's executed medical staff application, dated January 30, 1998.
- i. Attached hereto as Exhibit DD-9 is a true and correct redacted copy of an excerpt of Dr. Gilman's executed medical staff application, dated December 1, 1998.
- j. Attached hereto as Exhibit DD-10 is a true and correct redacted copy of an excerpt of Dr. Gilman's executed medical staff application, dated November 13, 2000.
- k. Attached hereto as Exhibit DD-11 is a true and correct redacted copy of an excerpt of Dr. Gilman's executed medical staff application, dated September 10, 2002.
- l. Attached hereto as Exhibit DD-12 is a true and correct redacted copy of an excerpt of Dr. Gilman's executed medical staff application, dated June 22, 2004.
- m. Attached hereto as Exhibit DD-13 is a true and correct redacted copy of an excerpt of Dr. Gilman's executed medical staff application, dated April 17, 2006.
- n. Attached hereto as Exhibit DD-14 is a true and correct redacted copy of Dr. Gilman's executed medical staff application, dated March 10, 2008.
- o. Attached hereto as Exhibit DD-15 is a true and correct copy of Dr. Gilman's executed medical staff application, dated October 10, 2011.

FOIA Guidance

35. Attached hereto as Exhibit EE is a true and correct copy of an excerpt of the University of Michigan Staff Handbook related to FOIA.

36. Attached hereto as Exhibit FF is a true and correct copy of FOIA guidance from the University's Office of the Vice President for Communications.

37. Attached hereto as Exhibit GG is a true and correct copy of FOIA guidance from the University's Compliance Resource Center, dated March 4, 2011.

38. Attached hereto as Exhibit HH is a true and correct copy of FOIA guidance from the University's Office of Research and Sponsored Projects, dated July 6, 2009.

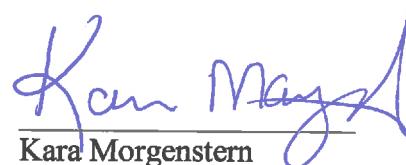
39. Attached hereto as Exhibit II is a true and correct copy of FOIA guidance from the University's Office of the General Counsel.

40. Attached hereto as Exhibit JJ is a true and correct copy of FOIA guidance for Sponsors from the University Medical School.

41. Attached hereto as Exhibit KK is a true and correct copy of a University Faculty/Staff Guide to Complying With Michigan's Freedom of Information Act.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: October 24, 2013
Ann Arbor, Michigan



Kara Morgenstern